

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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**INJAH TAFARI,**

**Plaintiff,**

**9:12-cv-703  
(GLS/ATB)**

**v.**

**ALBERT PRACK et al.,**

**Defendants.**

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**APPEARANCES:**

**OF COUNSEL:**

**FOR THE PLAINTIFF:**

InJah Tafari  
Pro Se  
89-A-4807  
Upstate Correctional Facility  
P.O. Box 2001  
Malone, NY 12953

**FOR THE DEFENDANTS:**

NO APPEARANCE<sup>1</sup>

**Gary L. Sharpe  
Chief Judge**

**MEMORANDUM-DECISION AND ORDER**

**I. Introduction**

Plaintiff *pro se* InJah Tafari brings this action under 42 U.S.C. §

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<sup>1</sup> Service on defendants has not yet been permitted as this case comes to the court as part of the preliminary review under 28 U.S.C. § 1915.

1983, alleging his constitutional rights were violated by defendants. (See Am. Compl., Dkt. No. 7.) In an Amended Report-Recommendation and Order (R&R) filed May 23, 2012,<sup>2</sup> Magistrate Judge Andrew T. Baxter recommended that Tafari's motion to proceed *in forma pauperis* (IFP), (Dkt. No. 2), be denied pursuant to 28 U.S.C. § 1915(g).<sup>3</sup> (See generally R&R, Dkt. No. 8.) Pending are Tafari's objections to the R&R and his motion for a preliminary injunction/temporary restraining order (PI/TRO). (See Dkt. Nos. 10, 11.) For the reasons that follow, the R&R is adopted in its entirety and the motion for a PI/TRO is denied with leave to renew after Tafari pays the requisite filing fee.

## **II. Standard of Review**

Before entering final judgment, this court routinely reviews all report-recommendation and orders in cases it has referred to a magistrate judge. If a party has objected to specific elements of the magistrate judge's findings and recommendations, this court reviews those findings and recommendations *de novo*. See *Almonte v. N.Y. State Div. of Parole*, No.

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<sup>2</sup> The clerk is directed to withdraw the previous R&R. (See Dkt. No. 6.)

<sup>3</sup> The Clerk is directed to append the R&R to this decision, and familiarity therewith is presumed.

Civ. 904CV484GLS, 2006 WL 149049, at \*6-7 (N.D.N.Y. Jan. 18, 2006).

Where no party has filed an objection, only vague or general objections are made, or a party resubmits the same papers and arguments already considered by the magistrate judge, this court reviews the findings and recommendations of the magistrate judge for clear error. See *id.* at \*4-5.

### **III. Discussion**

Tafari's "objections" consist of factual assertions and legal citations already considered by Judge Baxter. (See Dkt. No. 10 at 2-6.) These mere reassertions are insufficient to warrant *de novo* review, see *Almonte*, 2006 WL 149049, at \*4-5, and, more importantly, immaterial, as they fail to appreciate the principal basis of Judge Baxter's decision—that is, the lack of nexus between the imminent danger and the unlawful conduct underlying Tafari's Amended Complaint, (see R&R at 5-9). Simply put, the alleged assaults and threats that form the basis of Tafari's imminent danger claim are not "*fairly traceable* to [the] unlawful conduct asserted in the [Amended Complaint]." *Pettus v. Morgenthau*, 554 F.3d 293, 299 (2d Cir. 2009); (see Am. Compl. at 3-8.) As such, having found no clear error in the R&R, the court accepts and adopts Judge Baxter's R&R in its

entirety.<sup>4</sup>

#### **IV. Conclusion**

**WHEREFORE**, for the foregoing reasons, it is hereby

**ORDERED** that the Clerk is directed to withdraw the previous Report-Recommendation and Order (Dkt. No. 6); and it is further

**ORDERED** that Magistrate Judge Andrew T. Baxter's May 23, 2012 Amended Report-Recommendation and Order (Dkt. No. 8) is **ADOPTED** in its entirety; and it is further

**ORDERED** that Tafari's motion to proceed *in forma pauperis* (Dkt. No. 2) is **DENIED** pursuant to 28 U.S.C. § 1915(g); and it is further

**ORDERED** that this case is **DISMISSED** unless Tafari pays the \$350.00 filing fee within thirty (30) days of the date of this Memorandum-Decision Order; and it is further

**ORDERED** that if Tafari fails to pay the \$350.00 filing fee within thirty (30) days of the date of this Memorandum-Decision and Order, the Clerk shall enter judgment for defendants and close this case; and it is further

**ORDERED** that Tafari's motion for a PI/TRO (Dkt. No. 11) is **DENIED**

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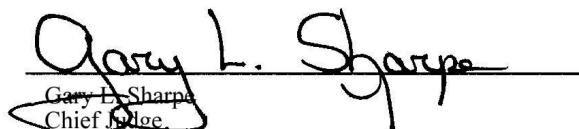
<sup>4</sup> In light of the court's decision to deny Tafari IFP status, his motion for a PI/TRO is denied with leave to renew after the filing fee is paid. (See Dkt. No. 11.)

with leave to renew pending the payment of the filing fee; and it is further

**ORDERED** that the Clerk provide a copy of this Memorandum-  
Decision and Order to the parties.

**IT IS SO ORDERED.**

July 2, 2012  
Albany, New York

  
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Gary L. Sharpe  
Chief Judge  
U.S. District Court